



State of Delaware
Commission on Forensic Science
(CFS)

Minutes

09/21/15

10:00 -12:00

Division of Forensic Science
1st Floor Conference Room
200 South Adams Street
Wilmington, DE 19801

1. Welcome and Call to Order

- The meeting was called to order by Secretary Lewis Schiliro who provided a brief welcome and thanked everyone for coming this morning. Those in attendance were as follows:

Voting Commission Members

Secretary Lewis D. Schiliro
Secretary Rita Landgraf
Major John Evans
Chief Randall L. Hughes
Lisa Schwind, RN, Esquire
Anita Symonds, RN
Clytrice L. Watson, Ph.D.

Department of Safety & Homeland Security - **Chair**
Department of Health & Social Services - **Co-Chair**
Delaware State Troopers Association
Delaware Police Chiefs' Council
Public Defender's Office – Forensic Attorney
Christiana Care
Associate Dean – Delaware State University

Non-voting Commission Support

Commission's Legal Support

DAG Lisa Morris

Department of Justice

Council Support

Patricia McIlvaine

Division of Forensic Science

Additional Non-voting Attendees

Isabella Kaplan
Rebecca Walker
Michael Wolf

DTI – Customer Engagement Specialist
Division of Forensic Science-Chief Operating Officer
Division of Forensic Science-Director

Absent Voting Commission Members

Kathleen Jennings
Senator Robert Marshall
Representative John Mitchell

DE Department of Justice-State Prosecutor
Delaware State Senate
Delaware House of Representatives

1. Approval of the Minutes

- Secretary Schiliro asked everyone if they had reviewed the minutes of the last meeting. Lisa Schwind advised that she would like a change in Agenda Item 6, Standards & Certification Advisory Committee, to read that she agrees to the utility of ASCLD but supports the recommendation of the Standards & Accreditation Advisory Committee for dual accreditation. It was agreed this change would be made to the minutes. Hearing no further objections, Secretary Schiliro asked for a motion to approve the minutes. Secretary Landgraf motioned to approve and Major Evans seconded the motion, with voting members in attendance unanimously voting to approve the minutes of the July 27, 2015 meeting.

2. Commission Meeting Attendance

- Secretary Schiliro said he would like to speak about Commission members' attendance. He recognizes there isn't anything in our by-laws about it, but we should consider the importance of having everyone's attendance at our meetings. Secretary Schiliro stated that he will generate a communique reiterating the importance of our role and duties under the statute.

3. Election of New Vice-Chair

- Secretary Schiliro advised that it is time for the Commission to elect a new Vice-Chair and we shall do so at our next meeting. According to our by-laws, the Chair shall be succeeded by the Vice-Chair and the Commission shall elect a new Vice-Chair. One member of the Commission will be elected to serve as Vice-Chair by a majority of the members appointed to the Commission.

4. Statewide Bar Coding

- Secretary Schiliro informed members that we are going to make a presentation to the “911” Board and ask for funding for a statewide bar coding system. He thinks we would all agree that the majority of problems here were chain of custody issues. The state is under contract with “New World” and we have 42 agency licenses for their bar coding program under that contract. Secretary Schiliro stated it would save a tremendous amount of money if the board approves. Chief Hughes added that because we already have the modules, the cost to us would be approximately \$400,000 for hardware and support. Secretary Schiliro concurred and said that should we go outside to purchase this program, the cost would be around \$1.6M.

5. 2016 Commission Goals/Objectives/Annual Report

- Secretary Schiliro stated that by the end of this year we must have a comprehensive, strategic plan in place for DFS to move forward. He said that this year’s report is critical to provide a vision for the future and this report should contain what it will take to accomplish that. The Secretary informed Commission members that a presentation will be made to the Governor in February. He emphasized that the reports issued by the Standards & Certification Advisory Committee and the Strategic Planning Advisory Committee are vital to the future of this laboratory. We need to take a huge step forward and this report should stand on its own, regardless of politics or budget. The Secretary continued that this Commission must rely on the science of forensics and even a tough budget year should not stop us putting forth what the future of this division should be. The State must recognize what it will take to carry the Division into the future and what investment needs to be made.
- Secretary Schiliro then turned the meeting over to Director Wolf for an update on DFS.

6. DFS Update

- Director Wolf informed the Commission of the following DFS activities:
 - Personnel: DFS has hired 10 new employees; with five being on-board, four starting today and one still undergoing a background check.

➤ DFS Units:

- a. DNA has two new hires on-board and training will take approximately 4-6 months. There have been a number of discussions with the Department of Justice and a triage process was devised which will prioritize/limit number of items submitted. Additionally, a procedure was established for swabbing and submitting DNA evidence and it was disseminated through the Police Chief's Council to all police and DOJ departments.
- b. Forensic Chemistry has hired two evidence specialists who are currently in training and a casual/seasonal chemist. The arson chemist is also being cross-trained in drugs. The unit is receiving drug submissions from all police departments except New Castle County; however, we have taken select cases from them. Director Wolf also reported that the unit's productivity is starting to improve.
- c. Toxicology continues to turn cases around on a timely basis. They also continue to be very productive and the backlog of cases is down. We are still considering the consolidation of DUI testing which is currently done at the DSP Crime Lab in Dover.
- d. Medical Examiner: We have hired two full-time investigators and two casual/seasonal investigators. The Medical Examiner's unit currently has one casual/seasonal morgue assistant in the hiring process and with that hire, they will be fully staffed, both in Wilmington and in Georgetown. However, as stated previously, with Dr. McDonough's retirement at year's end, we will be down one pathologist.
- e. All Units: Director Wolf stated that all units are now preparing monthly reports reflecting backlogs/case completions/number of samples analyzed and will include this data in our annual report. Hopefully, he said, we will have a draft prepared by the next meeting.

- Accreditation: The ASCLD application was submitted last Friday. Our Quality Manager, Patty Monaghan, is currently preparing their 16-page checklist and we expect the ASCLD auditors to be on site the first week in February, 2016.

- Technology Transition: The physical transition of the division's computer systems from DHSS IT to DTI (Department of Technology & Information) began on September 1st. The FLIMS integration has started and we expect completion of the last phase of this transition during January/February, which includes the installation of new computers.
- Sampling: A Sussex County judge questioned our method regarding the sampling of cases with a high volume of items. Our lab uses a statistically based method to test a selected number of items in large cases with a 95% confidence level. The judge was presented with an explanatory "white paper", scientific articles, and expert witnesses in this field. He did rule he would accept our method of sampling. If he had not, it would have required a tremendous increase in testing.
- Rebecca Walker, Chief Operating Officer, had a meeting with members of the DOJ and reported to the Commission that the Court of Common Pleas has established a "Drug Court" and misdemeanor drug cases will be handled there. She also said that they would consider support of the Raman© spectrometer and we are going to work with the DOJ on preparing a "test case" to hopefully forego lab submissions.
- Contracts: Director Wolf reported that both DAG Lisa Morris and Rebecca Walker are reviewing DFS contracts to ensure compliance with state requirements.
- Secretary Schiliro then moved the meeting on to DAG Lisa Morris for discussion of DFS Corrective Action Reports (CARs).

7. CAR Reporting

- DAG Lisa Morris explained the basic premise of DFS Corrective Actions Reports (herein after referred to as "CARs"). Under the DFS ISO 17025 certification, it is a requirement to have a corrective action system in place. It is the responsibility of Laboratory Managers and the Quality Assurance Manager, with approval of the Director and/or the Chief Operating Officer, to initiate, complete and close out CARs whenever there is non-conforming work or a departure from management system policies and procedures. The level of these reports are:

- Class I – The issue is systemic, and the nature and cause of the issue raises immediate concern regarding the quality of the individual analyst's or laboratory's work product. CARs may be initiated from but not limited to internal/external audits, management reviews, feedback from customers, or staff observations.
- Class II - The issue is not persistent or serious enough to cause immediate concern for the over-all quality of the laboratory's or individual analyst's work product. It is determined unlikely to reoccur and is not systemic.
- Class III - The issue is primarily administrative or clerical and does not affect the reliability of the laboratory's or analyst's work.
- So far this year, DAG Morris said, there have been 23 CARs and the breakdown is as follows:
 - Toxicology: None
 - Quality Assurance: 2 (both Class III)
 - DNA: 8 (all Class III)
 - Forensic Chemistry: 13 (5-Class I; 5-Class II; 3-Class III)
- The Forensic Chemistry CARs primarily relate to employees not following SOP's. For Class I CARs, the employee will likely also operate under a Performance Plan. If performance does not improve, an employee might be disciplined up to and including discharge. The Performance Plan is not a public document as it deals directly with an individual. A report on CARs is made during weekly management meetings to maintain consistency and include a review of metrics or results to prevent potential causes of future non-conformances.
- Lisa Schwind asked about Class I CARs reported in the News Journal. Lisa Morris responded that her reporting is for 2015 and those CARs occurred in 2014. Anita Symonds asked if the Pathology unit is considered in this report. DAG Morris answered that the Medical Examiner unit is accredited under NAME, not ISO; therefore, their policies and procedures align with NAME.

8. Standards & Certifications Advisory Committee

- Dr. Watson reported that the Committee last met on September 14th and that committee member, Patricia Monaghan, resigned. The committee discussed potential replacements, such as Paul Gilbert (DNA), Jamie Armstrong (DNA) and David Mangler, Director, Delaware Division of Professional Regulation. Dr. Watson said she will contact these individuals to see if they would be willing to serve as a voting member on this committee.
- Dr. Watson said that now that ASCLD has been selected as the choice for DFS' accrediting body, they are looking toward the next phase of their committee's tasks:
 - The committee's consensus is that continuing accreditation, training and continued educational opportunities for DFS staff is critical in order for DFS to undergo a complete transformation. Professionally speaking, this will help attract a better pool of applicants for future positions, provide exposure of staff on a national level and lead to collaborative relations by attending conferences and training outside of Delaware.
 - Professional development should be a requirement. It will keep staff abreast of current and new technologies and court room testimony; perhaps more webinars would help accomplish this.
 - Outreach: DFS should highlight things that are currently being done by making local presentations and attending training; post presentations and education activities where DFS staff participate and update the website to include a "commonly asked questions" page. To this end, we are pleased to announce that Dr. Gary Collins is participating in the Dean's Distinguished Lecturers Series at Delaware State University.
- Secretary Schiliro thanked Dr. Watson for her Committee's open reporting – highlighting the good, and also, the not so good issues. He said their work has helped us tremendously. The Secretary then moved the meeting forward to Major Evans for an update on the Strategic Planning Advisory Committee.

9. Strategic Planning Advisory Committee

- Major Evans reported the committee met on September 21st and reviewed the following site visits:
 - Maryland State Police Crime Laboratory, Baltimore County, MD (4/1/15)
 - State of Maryland, Office of the Chief Medical Examiner, City of Baltimore (5/14/15)
 - NJSP Office of Forensic Sciences Central Regional Laboratory, Hamilton, NJ (6/23/15)
 - Consolidated Forensic Laboratory in Washington, DC (7/23/15)

Major Evans noted that a site visit to the Armed Forces DNA Identification Laboratory and Armed Forces Medical Examiner System at Dover Air Force Base is scheduled for 9/24/15. He said that the committee will draft a report summarizing best practices and lessons learned as a result of touring these sites which are all relatively new facilities.

- b. Current Building Condition: Ten questions were identified for the anonymous survey for all DFS staff regarding building and work conditions. The survey will be sent out to all employees this week with a two-week turnaround timeline.
- c. Synergy: Lisa Morris working with Comptroller to research dollar amount spent on outsourcing evidence analyses. Major Evans is working with the DSP Fiscal Unit in an attempt to identify cost amounts for outsourcing DSP evidence.
- d. Staff Retention/Pay Parity: Dr. Lehman provided us with several websites to compare salaries across the country of similar positions and results will be included in the Committee's report to the Commission.
- e. Evidence Destruction: Currently, there is no evidence destruction statute in Delaware Lisa Schwind provided the committee's with various publications on statutes in other states and will be reviewed in Committee.
- f. College Internships: Dr. Lehman informed the committee that there are currently twenty University of Delaware students working on the application process which will include a background check. Lisa Morris is also working with Joe Swiski, DSHS HR, on this initiative.

- Major Evans said that the committee has had preliminary discussions regarding the format of the report to the Commission. Each member has been tasked to complete summary reports on certain action items listed above to include in the report. He said it is the goal of this committee to have a draft copy of the report ready to submit at our next Commission meeting on December 14, 2015.

10. Commission Members Open Discussion

- Secretary Schiliro asked if anyone had any other questions/concerns. Anita Symonds said that there still is not a clear path defining how people can contact the Commission. After a lengthy discussion, it was agreed that Rebecca Walker would seek having a hyperlink installed on the DFS website which would direct the public to the Commission's site.

11. Adjourn

- Chief Hughes made a motion to adjourn the meeting and Secretary Landgraf seconded the motion, which was unanimously approved by voting members of the Commission present.
- The meeting adjourned at 11:49 a.m.

Next Meeting: Monday, December 14, 2015

10:00 am – 12:00 am

Location: DFS, 200 South Adams Street, Wilmington, DE

1st Floor Conference Room